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EXAMINER	
CLARK, MAXWELL A	
ART UNIT	**PAPER NUMBER**
2416	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/510,436	SILVER ET AL.	
	Examiner	Art Unit	
	MAXWELL A. CLARK	2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 November 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on the fifth of November 2008, with respect to claim rejections under 35 USC § 103 have been fully considered but they are not persuasive. Applicant argues that Hsu does not disclose that the connection from the PDSN to the Internet Audio Gateway is established upon establishing the PPP session between the MS and the PDSN. However, Hsu does disclose this feature. As shown in figure 2, the Content Server 202 content is accessed through an IP network, i.e. internet, by a PDSN, see paragraph 0053, A wireless communication system 200 is illustrated in FIG. 2, wherein IP packets are provided by one or more Content Servers (CSs) 202 via an IP network 204 to one or more Packet Data Serving Nodes (PDSNs) 206. A CS 202 provides data that is transmitted as Internet Protocol data packets ("IP packets") across the IP network 204 and the CS 202 transmits audio data. As describes and illustrated there is an established connection between the ms, bs, pdsn, ip network and cs to enable the content server to provide audio content through the internet audio gateway. Furthermore, applicant argues that the WAP gateway is not discloses, however Hsu clearly discloses the CS 202 advertises through a broadcast service to the system users wherein any user desiring to receive the HSBS service may subscribe with the CS 202 and is then able to scan the broadcast service schedule in a variety of ways that may be provided by the CS 202 wherein the broadcast content is communicated through Wireless Application Protocol (WAP), see paragraph 0059.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 5 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. Independent claims 1, 9 and 16 have been amended to include the limitation "a plurality of Internet Audio contents stored on an Internet Radio (IR) Application Server" and asserts that support for the amendment can be found on page 4, line 30 though page 6, line 3. The instant application states that when audio is played the IR application server merely buffers the streaming audio, see page 6, lines 1-3, which is different from storing a plurality of Internet Audio contents as claimed. Therefore, the instant application lacks support for the amendments. Furthermore, Independent claims 1, 9 and 16 have been amended to include the limitation "providing the selection of the plurality of Internet Audio contents made by the MS to the IR Application Server." The limitation is not supported in the instant application.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 16, the phrase "having access to a plurality of Internet Audio contents stored on an Internet Radio (IR) Application Server to register the MS with the Internet Audio Gateway" renders the claim indefinite because it is unclear how having access to a plurality of Internet Audio contents stored on an Internet Radio (IR) Application Server achieves registering the MS with the Internet Audio Gateway. Moreover, claims 1, 9 and 16 include the limitation “providing the selection of the plurality of Internet Audio contents made by the MS to the IR Application Server.” However, in each claim a preceding limitation states “a plurality of Internet Audio contents stored on an Internet Radio (IR) Application Server,” it is unclear how the IR Application Server provides to itself Internet Audio contents where the IR Application Server is storing the Internet Audio contents.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu et al. (US 2003/0134622 A1) in view of Dusse (US 2002/0068544 A1).

Regarding claim 1, Hsu discloses providing Internet based audio to a user in a wireless Network (¶0045, ¶0046 wherein the wireless communication system supporting a broadcast system, ¶0038, wherein the broadcast service comprises IP packets to multiple users providing audio streams, corresponds to providing Internet based audio to a user in a wireless network), initiating a request to establish a Point to Point (PPP) session from a mobile station (MS) to a Packet Data Service Node (PDSN) (fig. 2, fig. 6, ¶0064, wherein the MS 210 that desires to receive the service may establish a connection with the PDSN 206 at time t4 through the BS corresponds to initiation a request to establish a session from a mobile station (MS) to a Packet Data Service Node (PDSN), i.e. ppp session, establishing a connection from the PDSN to an Internet Audio Gateway to register the MS with the Internet Audio Gateway (fig. 2, ¶0064, wherein the BS is the Internet Audio Gateway which establishes the connection from the PDSN to MS, ¶0106, wherein the BS sets the field HSBS_REG_USED when the to register the MS with the BS/Internet Audio Gateway), establishing a Wireless Application Protocol (WAP) session between the MS and a WAP gateway (¶0059, wherein the broadcast content communicated though the Wireless Application Protocol (WAP), in which the main use for WAP is to enable access to the internet from a mobile

phone or PDA , therefore the mobile phone acts through WAP, hence MS acts as the WAP gateway together with the WAP disclosed), selecting from a plurality of Internet Audio contents to play on the MS via the WAP gateway (¶0038, wherein the broadcast service provides IP packets comprising audio streams and the subscribers have the ability to "tune in" to a designated channel which corresponds to selecting from a plurality of Internet Audio contents to play on the MS via the WAP gateway), Hsu discloses receiving a call from the MS at the Internet Audio Gateway and sending the selection of the plurality of Internet Audio contents to the MS (¶0064, wherein the MS establishing a connection with the PDSN through the BS, i.e. Internet Audio Gateway, corresponds to receiving a call from the MS at the Internet Audio Gateway and receiving the broadcast service from the CS through the PDSN and the BS corresponds to sending the selection of the plurality of Internet Audio contents to the MS). Hsu does not expressly disclose the call to the Internet Audio Gateway including a mobile identity identifying the MS within a network. Dusse discloses a device ID for the purpose of identifying the mobile device t outside entities, ¶0037. It would have been obvious to one of ordinary skill in the art at the time of the application to include device identification in Hsu, as in Dusse, for the purpose of identifying the mobile device in a user account to enable billing for services used.

Regarding claim 2, Hsu discloses the content to include news and weather, ¶0056. Hsu does not expressly disclose selecting from a plurality of Internet Audio contents includes selecting from a set of cities. It would have been obvious to one of ordinary skill in the art at the time of the application to include selecting from a plurality

of Internet Audio contents includes selecting from a set of cities to provide the local news and weather.

Regarding claim 3, Hsu discloses the content to include news and weather, ¶0056. Hsu does not expressly disclose selecting from a plurality of Internet Audio contents includes selecting from a set of audio contents that are within a geographic region. It would have been obvious to one of ordinary skill in the art at the time of the application to include selecting from a plurality of Internet Audio contents includes selecting from a set of audio contents that are within a geographic region to provide the local news and weather.

Regarding claim 4, Hsu discloses selecting from a plurality of Internet Audio contents includes selecting from a plurality of radio stations (¶0056, wherein subscribers to the broadcast service "tune in" to a designated channel, i.e. one of the audio streams, corresponds to selecting from a plurality of Internet Audio contents includes selecting from a plurality of radio stations).

Regarding claim 5, Hsu discloses changing the selection of the plurality of Internet Audio contents (¶0038 wherein subscribers to the broadcast service "tuning in" to a designated channel corresponds to changing the selection of the plurality of Internet Audio contents).

Regarding claims 6 Hsu discloses a wireless system that employs spread spectrum techniques designed to support standards such as the "TIA/EIA/IS-95-B Mobile Station-Base Station Compatibility Standard for Dual-Mode Wideband Spread Spectrum Cellular System" referred to herein as the IS-95 standard, the standard

offered by a consortium named "3rd Generation Partnership Project" referred to herein as 3GPP, and embodied in a set of documents including Document Nos. 3G TS 25.211, 3G TS 25.212, 3G TS 25.213, and 3G TS 25.214, 3G TS 25.302, referred to herein as the W-CDMA standard, the standard offered by a consortium named "3rd Generation Partnership Project 2" referred to herein as 3GPP2, and TR-45.5 referred to herein as the cdma2000 standard, formerly called IS-2000 MC. It would have been obvious to one of ordinary skill in the art at the time of the application for the MS utilizes a Global Service Messaging wireless standard for wireless communication as GSM is one of the most widely uses standards in the world.

Regarding claims 7, Hsu discloses the MS utilizes a Code Division Multiplexing Access protocol for wireless communication (¶0046).

Regarding claim 8, Hsu discloses the audio content is streamed to the Internet Audio gateway and buffered and then sent to the MS (¶0064, wherein an MS 210 that desires to receive the service may establish a connection with the PDSN 206 at time t4 through the BS 208 and may then begin receiving the broadcast/multicast service from the CS 202 through the PDSN 206 and the BS 208 at times t5 and t6 corresponds to the audio content is streamed to the Internet Audio gateway and buffered and then sent to the MS).

Regarding claim 9, Hsu discloses providing Internet based audio to a user in a wireless Network (¶0045, ¶0046 wherein the wireless communication system supporting a broadcast system, ¶0038, wherein the broadcast service comprises IP packets to multiple users providing audio streams, corresponds to providing Internet based audio

to a user in a wireless network), a Packet Data Service Node (PDSN) (fig. 2-206), a mobile station (MS) initiating a request to establish a session from the mobile station (MS) to the PDSN (fig. 2, fig. 6, ¶0064, wherein the MS 210 that desires to receive the service may establish a connection with the PDSN 206 at time t4 through the BS corresponds to a mobile station (MS) initiating a request to establish a session from the mobile station (MS) to the PDSN), i.e. ppp, an Internet Audio Gateway, wherein the PDSN establishes a connection to a Internet Audio Gateway to register the MS with the Internet Audio Gateway (fig. 2, ¶0064, wherein the BS is the Internet Audio Gateway which establishes the connection from the PDSN to MS, ¶0106, wherein the BS sets the field HSBS_REG_USED when the to register the MS with the BS/Internet Audio Gateway), a Wireless Application Protocol (WAP) Gateway, wherein a Wireless Application Protocol (WAP) Browser session is established between the MS and the WAP gateway (¶0059, wherein the broadcast content communicated though the Wireless Application Protocol (WAP), in which the main use for WAP is to enable access to the internet from a mobile phone or PDA , therefore the mobile phone acts through WAP, hence MS acts as the WAP gateway together with the WAP disclosed) , a plurality of Internet Audio contents to play on the MS, wherein the user selects from the plurality of Internet Audio contents via the WAP gateway (¶0038, wherein the broadcast service provides IP packets comprising audio streams and the subscribers have the ability to “tune in” to a designated channel which corresponds to a plurality of Internet Audio contents to play on the MS, wherein the user selects from the plurality of Internet Audio contents via the WAP gateway), Hsu discloses receiving a call from the

MS at the Internet Audio Gateway and sending the selection of the plurality of Internet Audio contents to the MS (¶0064, wherein the MS establishing a connection with the PDSN through the BS, i.e. Internet Audio Gateway, corresponds to receiving a call from the MS at the Internet Audio Gateway) and receiving the broadcast service from the CS through the PDSN and the BS corresponds to sending the selection of the plurality of Internet Audio contents to the MS. Hsu does not expressly disclose the call to the Internet Audio Gateway including a mobile identity identifying the MS within a network. Dusse discloses a device ID for the purpose of identifying the mobile device t outside entities, ¶0037. It would have been obvious to one of ordinary skill in the art at the time of the application to include device identification in Hsu, as in Dusse, for the purpose of identifying the mobile device in a user account to enable billing for services used.

Regarding claim 10, Hsu discloses the content to include news and weather, ¶0056. Hsu does not expressly disclose selecting from a plurality of Internet Audio contents includes selecting from a set of cities. It would have been obvious to one of ordinary skill in the art at the time of the application to include selecting from a plurality of Internet Audio contents includes selecting from a set of cities to provide the local news and weather.

Regarding claim 11, Hsu discloses the content to include news and weather, ¶0056. Hsu does not expressly disclose selecting from a plurality of Internet Audio contents includes selecting from a set of audio contents that are within a geographic region. It would have been obvious to one of ordinary skill in the art at the time of the application to include selecting from a plurality of Internet Audio contents includes

selecting from a set of audio contents that are within a geographic region to provide the local news and weather.

Regarding claim 12 Hsu discloses an ability to change the selection of the plurality of Internet Audio contents (¶0038 wherein subscribers to the broadcast service "tuning in" to a designated channel corresponds to an ability to change the selection of the plurality of Internet Audio contents).

Regarding claims 13 Hsu discloses a wireless system that employs spread spectrum techniques designed to support standards such as the "TIA/EIA/IS-95-B Mobile Station-Base Station Compatibility Standard for Dual-Mode Wideband Spread Spectrum Cellular System" referred to herein as the IS-95 standard, the standard offered by a consortium named "3rd Generation Partnership Project" referred to herein as 3GPP, and embodied in a set of documents including Document Nos. 3G TS 25.211, 3G TS 25.212, 3G TS 25.213, and 3G TS 25.214, 3G TS 25.302, referred to herein as the W-CDMA standard, the standard offered by a consortium named "3rd Generation Partnership Project 2" referred to herein as 3GPP2, and TR-45.5 referred to herein as the cdma2000 standard, formerly called IS-2000 MC. It would have been obvious to one of ordinary skill in the art at the time of the application for the MS utilizes a Global Service Messaging wireless standard for wireless communication as GSM is one of the most widely uses standards in the world.

Regarding claims 14, Hsu discloses the MS utilizes a Code Division Multiplexing Access protocol for wireless communication (¶0046).

Regarding claims 15, Hsu discloses the audio content is streamed from the Internet Audio gateway to the MS (¶0064, wherein an MS 210 that desires to receive the service may establish a connection with the PDSN 206 at time t4 through the BS 208 and may then begin receiving the broadcast/multicast service from the CS 202 through the PDSN 206 and the BS 208 at times t5 and t6 corresponds to the audio content is streamed from the Internet Audio gateway to the MS).

Regarding claim 16, Hsu discloses providing Internet based audio to a user in a wireless Network (¶0045, ¶0046 wherein the wireless communication system supporting a broadcast system, ¶0038, wherein the broadcast service comprises IP packets to multiple users providing audio streams, corresponds to providing Internet based audio to a user in a wireless network), initiating a request to establish a Point to Point (PPP) session from a mobile station (MS) to a Packet Data Service Node (PDSN) (fig. 2, fig. 6, ¶0064, wherein the MS 210 that desires to receive the service may establish a connection with the PDSN 206 at time t4 through the BS corresponds to initiation a request to establish a session from a mobile station (MS) to a Packet Data Service Node (PDSN), establishing a connection from the PDSN to an Internet Audio Gateway to register the MS with the Internet Audio Gateway (fig. 2, ¶0064, wherein the BS is the Internet Audio Gateway which establishes the connection from the PDSN to MS, ¶0106, wherein the BS sets the field HSBS_REG_USED when the to register the MS with the BS/Internet Audio Gateway), establishing a Wireless Application Protocol (WAP) session between the MS and a WAP gateway (¶0059, wherein the broadcast content communicated though the Wireless Application Protocol (WAP), in which the main use

for WAP is to enable access to the internet from a mobile phone or PDA , therefore the mobile phone acts through WAP, hence MS acts as the WAP gateway together with the WAP disclosed), selecting from a plurality of Internet Audio contents to play on the MS via the WAP gateway (¶0038, wherein the broadcast service provides IP packets comprising audio streams and the subscribers have the ability to "tune in" to a designated channel which corresponds to selecting from a plurality of Internet Audio contents to play on the MS via the WAP gateway). Hsu discloses receiving a call from the MS at the Internet Audio Gateway and streaming the selection of the plurality of Internet Audio contents to the MS (¶0064, wherein the MS establishing a connection with the PDSN through the BS, i.e. Internet Audio Gateway, corresponds to receiving a call from the MS at the Internet Audio Gateway and receiving the broadcast service from the CS through the PDSN and the BS corresponds to streaming the selection of the plurality of Internet Audio contents to the MS). Hsu does not expressly disclose the call to the Internet Audio Gateway including a mobile identity identifying the MS within a network. Dusse discloses a device ID for the purpose of identifying the mobile device t outside entities, ¶0037. It would have been obvious to one of ordinary skill in the art at the time of the application to include device identification in Hsu, as in Dusse, for the purpose of identifying the mobile device in a user account to enable billing for services used. Examiner takes official notice that when streaming audio from an Internet Audio Gateway to a MS, the Internet Audio Gateway buffers the stream and sends out the portions, i.e. packet bursts, of the audio content from the Gateway to the MS, as this is commonplace in streaming media.

Regarding claim 17, Hsu discloses the content to include news and weather, ¶0056. Hsu does not expressly disclose selecting from a plurality of Internet Audio contents includes selecting from a set of cities. It would have been obvious to one of ordinary skill in the art at the time of the application to include selecting from a plurality of Internet Audio contents includes selecting from a set of cities to provide the local news and weather.

Regarding claim 18, Hsu discloses the content to include news and weather, ¶0056. Hsu does not expressly disclose selecting from a plurality of Internet Audio contents includes selecting from a set of audio contents that are within a geographic region. It would have been obvious to one of ordinary skill in the art at the time of the application to include selecting from a plurality of Internet Audio contents includes selecting from a set of audio contents that are within a geographic region to provide the local news and weather.

Regarding claim 19, Hsu discloses selecting from a plurality of Internet Audio contents includes selecting from a plurality of radio stations (¶0056, wherein subscribers to the broadcast service "tune in" to a designated channel, i.e. one of the audio streams, corresponds to selecting from a plurality of Internet Audio contents includes selecting from a plurality of radio stations).

Regarding claim 20, Hsu discloses changing the selection of the plurality of Internet Audio contents (¶0038 wherein subscribers to the broadcast service "tuning in" to a designated channel corresponds to changing the selection of the plurality of Internet Audio contents).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Halliday, Christopher I. (US 20020038376 A1), FEAKES, K L et al. (GB 2358107 A1), FEAKES, K L (GB 2360169 A1), KIM, J G (KR 2002072434 A1), BLOEBAUM, L S et al. (US 20070129074 A1), Feakes, Kieren (US 20030103607 A1), SUZUKI, HIDEAKI (JP 2001218273 A1), Frantz; Robert Heflin (US 6167043 A1), Chang; Young-fu et al. (US 6198738 B1), Naudus; Stanley T. (US 6259691 B1), Elliott; Isaac K. et al. (US 6335927 B1), Jimenez, Ray et al. (US 20020006124 A1), McConnell; Von K. et al. (US 6944150 B1), Hsu, Raymond T. et al. (US 20030145064 A1), Hsu, Raymond T. (US 20030134651 A1), Melaku, Makonnen et al. (US 20030074443 A1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAXWELL A. CLARK whose telephone number is (571) 270-1956. The examiner can normally be reached on Monday to Thursday 7:30A.M. through 5:00P.M. Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yao B. Kwang can be reached on (571) 272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 7, 2008

/Maxwell A. Clark/
Examiner, Art Unit 2416

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